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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,445

09/23/2003

Joseph A. Marino

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EXAMINER

PRONE, CHRISTOPHER D

ART UNIT

PAPER NUMBER

3738

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,445	Applicant(s) MARINO ET AL.	
	Examiner CHRISTOPHER D. PRONE	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10,12-19,21-26,28-33,35-40 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10,12-19,21-26,28-33,35-40 and 42-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/18/08 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 8-10, 12, 17-19, 21, 24-26, 28, 31-33, 35, 38-40, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 5,853,422 Huebsch.

In regards to claims 1, 8, 17, 24, 31, and 38 Huebsch discloses the same invention being an automatic loading mechanism for an occlusion device comprising: a right occluding body (200) comprising a support frame made up of a plurality of arms attached to a fixed center post (242) and puller arms connected to a floating center post (216) having a grasping knob (236), and a left occluding body (comprising a plurality of

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arms attached to a fixed center post. Huebsch discloses that first and second support frames (222) comprise elastic shape memory fixation devices described in column 3 on lines 64-67 of Huebsch, right and left sheets described in column 4 on lines 25-26. The floating center is positioned adjacent the fixed center when the body is in the open state (figures 16 and 17). The floating center is movable proximally from the fixed center when in the compressed shape shown in figure 14, wherein when the body is in the compressed state the fixed center can be pulled out or pushed out away from the floating center. (See Figures included below for further explanation)

In reference to claims 2, 9, 18, 25, 32, and 39, Huebsch discloses the same invention wherein the puller arms are constructed of nickel titanium described in column 3 on lines 64-67 of Huebsch.

In reference to claims 3, 10, 19, 26, 33, and 40, Huebsch discloses the same invention wherein an angle between adjacent puller arms is between about 5 degrees and about 180 degrees shown in figures 3 and 4 of Huebsch.

In reference to claims 5, 12, 21, 28, 35, and 42, Huebsch discloses the same invention wherein the floating center post comprises an axially extending groove (236) which reversibly connects with an axially extending pin (240) extending from the fixed center post shown in figures 15-17 of Huebsch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 13, 14, 22, 23, 29, 30, 36, 37, 43, and 44 are rejected under 35 U.S.C. 103 as being unpatentable over United States Patent 5,853,422 Huebsch in view of United States Patent 5,733,294 Forber.

Huebsch discloses the invention substantially as claimed being an automatic loading mechanism for an occlusion device. However, Huebsch does not disclose that the floating and fixed center posts are constructed of platinum-iridium.

Forber teaches the use of an occlusion device with center posts constructed of platinum-iridium (column 3 lines 42-43) in the same field of endeavor for the purpose of providing a center post with a high level of radiopacity.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the floating and fixed center posts of Huebsch out of platinum-iridium as taught by Forber in order to make the device stronger and more durable.

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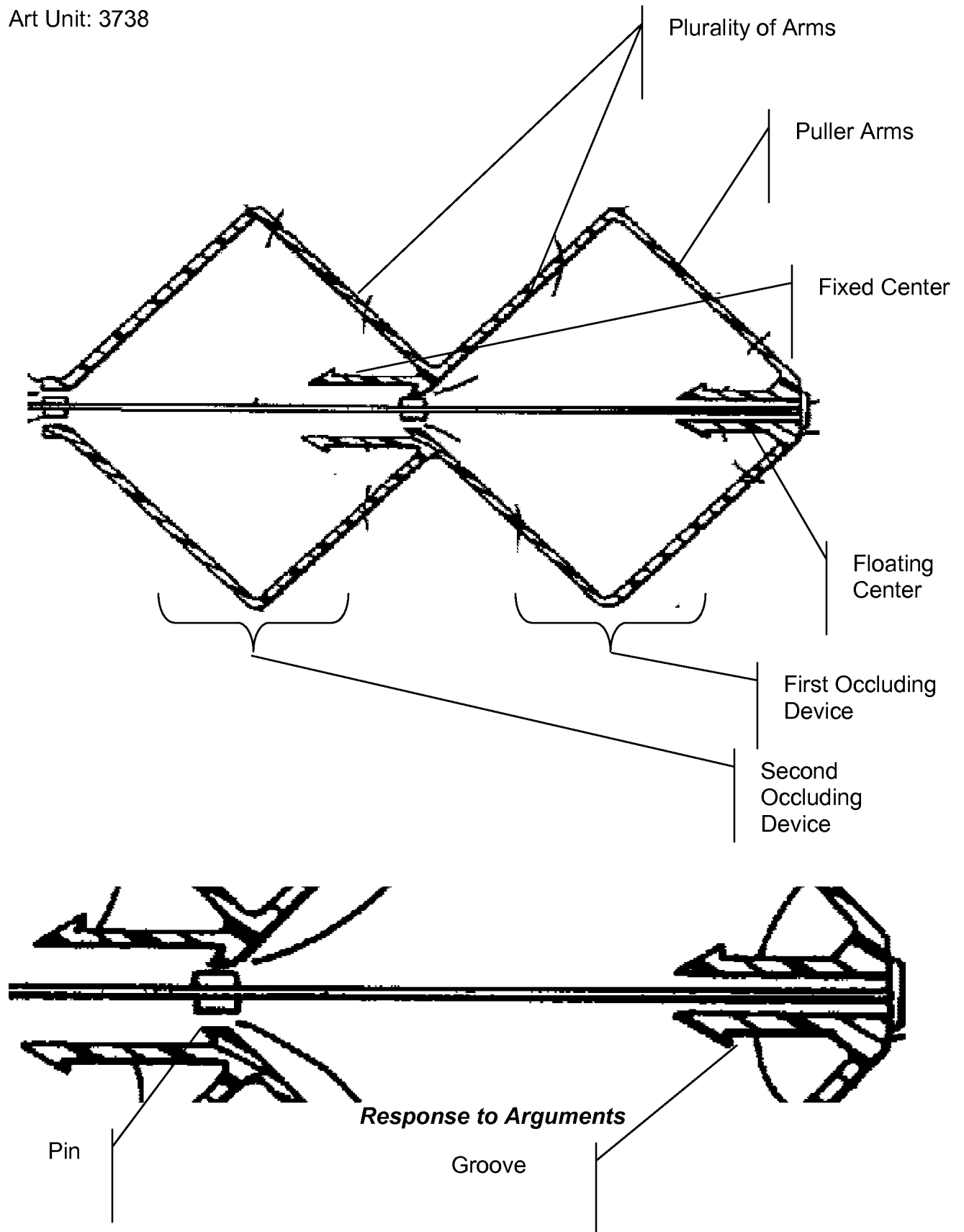
Claims 15 and 16 are rejected under 35 U.S.C. 103 as being unpatentable over United States Patent 5,853,422 Huebsch in view of United States Patent 5,108,420 Marks.

Huebsch discloses the invention substantially as claimed being described above. However, Huebsch does not disclose that the occlusion device frame work includes an outer loop.

Marks teaches the use of an occlusion device having a framework that includes an outer loop (23) in the same field of endeavor for the purpose of providing additional support throughout the outer edge of the occlusion device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the outer support ring taught by Marks to the occlusion device of Huebsch order to better support the outer edges of the first and second occlusion devices.

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Applicant's arguments filed 11/19/07 have been fully considered but they are not persuasive. The applicant argues that the arms of Huebsch do not engage the center post at their radially inner most ends. The examiner disagrees with this because the inner most portion of the arms ends at the center post. See above figures for further clarity

Response to Arguments

Applicant's arguments filed 7/18/08 have been fully considered but they are not persuasive. The applicant argues that the amendment calling the first and second occluding bodies right and left along with the requirement that the left body be inserted through an opening overcomes the rejections above. The examiner disagrees because the first and second occluding bodies of the rejections above clearly meet the right and left limitations. In regards to the insertion technique the device above is capable of inserting the entire device through the opening in a collapsed position then pulling only the left occluding device through the hole as required by the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone
Examiner
Art Unit 3738

/CDP/

/Corrine M McDermott/
Supervisory Patent Examiner, Art Unit 3738